

INDUSTRIAL WASTEWATER DISCHARGE PERMIT

Permit Holder: Washington State Dept. of Ecology
Contact (phone): Ha Tran (360.407.6064)
Mailing Address: PO Box 47706, Olympia, WA 98504-7600
Authorized Representative: CH2M Hill, Inc.
Address: 1100 112th Ave. S. Suite 400
Bellevue, WA 98004
Contact (phone): Martin Powers (425.233.3493)

Discharge Location: 2244 Port of Tacoma Road
Industry Type: Groundwater Remediation
SIC: 3463 NAICS: 541380

The above Industrial User (**Permittee**) is authorized by the Director of the Department of Public Works (**Director**), City of Tacoma (**City**) to discharge industrial and domestic wastewater into the City's municipal sanitary sewer system. The Permittee shall discharge in compliance with City Municipal Code Chapter 12.08 and any or all applicable provisions of federal and state laws or regulations, as amended, and in accordance with specific provisions of this permit.

This permit is granted based upon the information filed on **October 30, 2003, September 28, 2006 and October 28, 2008** with the **Environmental Services Compliance Support (ESCS) Division**, and in conformance with plans, specifications, and/or other data submitted to the City in support of the above application.

Dan C. Thompson, Ph.D.
Acting Asst. P.W. Director/Environmental Services

The 24-hour emergency telephone number to report spills, etc. is (253) 591-5595. During regular business hours (8:00 A.M. to 4:30 P.M.) contact ESCS at (253) 591-5588.

T1. WASTEWATER DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

Beginning on the effective date of the permit, and remaining in effect until the expiration date, the Permittee is hereby authorized to discharge industrial wastewater into the City's municipal sanitary sewer system subject to the following limitations.

Wastewater discharges authorized under this permit include contaminated groundwater extracted and pretreated under a Washington State Department of Ecology Cleanup Action Plan and Enforcement Order.

A. WASTEWATER DISCHARGE LIMITATIONS

Definitions and special requirements associated with statements contained in this section are noted in Section T1.C.

Wastewater Discharge Limitations

Parameters	Units	Daily Maximum
Arsenic, total	mg/L	0.1
BETX	mg/L	10 ¹
Cadmium, total	mg/L	0.25
Chromium, total	mg/L	1.0
Chromium ⁺⁶	mg/L	0.25 ²
Copper, total	mg/L	1.0
Lead, total	mg/L	0.4
Mercury, total	mg/L	0.05
Nickel, total	mg/L	1.0
pH within the range of	units	5.5-11.0
Total Petroleum ³ Hydrocarbons	mg/L	50 ⁴
Volatile and Semi-Volatile Organics	mg/L	2.13 ⁵
Zinc, total	mg/L	2.0
Flow	Gal/Min	40

¹ Benzene may not exceed 0.5 ppm.

² Analysis for Chromium⁺⁶ is only required if Total Chromium exceeds 0.25 mg/l

³ As Silica Gel Treated Hexane Extractable Material (SGT-HEM).

⁴ No free floating oil or visible sheen is allowed.

⁵ Total of all concentrations (or method reporting limits if not detected) equal to or greater than 10 ug/l (except benzene, ethylbenzene, toluene, and xylene - see BETX)

1. No discharge of flammable solvents or pollutants which may create a fire or explosion hazard in the municipal sewer system shall be allowed including, but not limited to, wastewater with a closed cup flashpoint of less than 140 °F or 60 °C using test methods prescribed in 40 CFR 261.21.
2. No discharge of potentially toxic or harmful materials, other than those listed above, is permitted unless specifically approved by ESCS. Specific limitations may be placed on other parameters, if determined appropriate by ESCS.

B. WASTEWATER MONITORING REQUIREMENTS

The sample location for all parameters listed below shall be at the discharge from the treatment system before entering the sanitary sewer.

Parameter	Sampling Frequency	Type of Sample	EPA Analysis Method
pH	Quarterly	Grab	1 50.1
Total Petroleum Hydrocarbons	Quarterly	Grab	1664
Metals, Total	Quarterly	Time Composite	200.7
Semi-Volatile Organic Constituents	Quarterly	Time Composite	625
Volatile Organic Constituents including xylenes	Quarterly	Grab	624
Flow	Continuously	Metered	

1. The Permittee shall analyze samples for all listed parameters and is responsible for continuous compliance with all of the above limitations.
2. If sampling and analyses of the authorized discharge are performed over and above the requirements of this Permit, they shall be done in accordance with the methods described in this Permit. The results of those analyses shall be submitted to ESCS within the time frames specified for required reports.
3. All samples taken for parameters listed in T1.A from the sample location described in Section T2.A., shall be collected and analyzed in accordance with 40 CFR Part 136. Results of those analyses shall be submitted to ESCS within the time frame specified for required reports.

C. DEFINITIONS AND SPECIAL REQUIREMENTS

1. AUTHORIZED REPRESENTATIVE

The Permittee's Authorized Representative must sign the certification statement that must accompany all reports required by this permit. (See Section T3.F).
The Authorized Representative must be:

- a. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- b. the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty to make major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Or,
- c. a general partner or proprietor of the Industrial User submitting the reports; or
- d. a duly authorized representative of the individual designated in paragraphs a - c of this section if the authorization is made in writing and submitted to ESCS by that individual; and
- e. the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company.

2. COMPOSITE SAMPLE

A composite sample is collected over time, formed either by continuous sampling or by mixing discrete sample`s. The sample may be either of the following types:

- a. A "time-composite" sample, which is composed of discrete sample aliquots collected in one container at constant time intervals, irrespective of stream flow; or
- b. A "flow-proportional" sample, which is collected either at constant sample volume at time intervals proportional to stream flow, or by sample volumes proportional to flow while maintaining a constant time interval between aliquots.

In either case, the Permittee shall demonstrate that the type of sample collected is representative of the wastewater being discharged. Representative samples shall be taken during a normal workday when typical operations are in progress and the usual process wastewaters are generated. The sample shall be taken at mid-point in the wastewater flow and stirring up bottom sediments within the channel shall be avoided.

3. DAILY MAXIMUM

Daily Maximum is the highest allowable value for any calendar day.

4. DAILY MAXIMUM FLOW

Daily maximum flow is defined as the highest flow during any day of the reporting period.

5. GRAB SAMPLE

A grab sample shall consist of an individual sample, which is representative of the wastewater flowing through the sample point and collected in less than 15 minutes without regard to flow or time. Representative samples shall be taken during a normal workday when typical operations are in progress and when the usual process wastewaters are generated. The sample shall be taken at mid-point in the wastewater flow and stirring bottom sediments within the channel shall be avoided.

D. SAMPLING and REPORTING REQUIREMENTS

1. REPRESENTATIVE SAMPLING

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored discharge and shall be collected, preserved and analyzed in accordance with 40 CFR Part 136, **Guidelines Establishing Test Procedures For The Analysis of Pollutants**, as amended. Samples shall be taken at a time that is representative of a normal workday when typical operations are in progress and the usual process wastewaters are generated.

2. SAMPLE FREQUENCY

Sampling shall be performed once each calendar quarter (i.e., January – March; April – June; July – September and October – December, during any 24-hour period of normal operations.

3. RECORDING OF RESULTS

For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

- a. Place, date and time of sampling;
- b. Dates the analyses were performed;
- c. Person(s) performing the sampling and analyses;
- d. Analytical techniques or methods used; and
- e. Results of all analyses.

4. TEST PROCEDURES

Sampling and analytical methods used to meet the requirements specified in this permit, or for other monitoring activities associated with the Permittee's wastewater discharge, shall be performed by a laboratory accredited by the Department of Ecology for such analyses. Unless approved otherwise in writing by the City, sampling protocols and analytical methods shall conform to 40 CFR Part 136, as amended, **Guidelines Establishing Test Procedures for the Analysis of Pollutants**. Samples for TPH shall be analyzed using EPA Method 1664, *Silica Gel Treated, n-Hexane Extractable Material*.

Specific analytical techniques shall be selected to insure that method detection limits are equal to or less than the discharge limitations of this permit.

T2. SPECIAL CONDITIONS

A. SAMPLE LOCATION

The Permittee shall maintain an approved sampling point after treatment and before discharge to the sanitary sewer, to allow inspection, sampling and flow measurement of the wastewater stream discharged. The sample point shall be in accordance with the requirements specified by ESCS.

B. FLOW METER

A flow meter, approved by ESCS, shall be used to measure discharge flow volume. The flow meter shall read in cubic feet and will be used to determine the volume of water discharged to the sanitary sewer in order to calculate appropriate fees for service.

The Permittee shall operate, calibrate, and maintain the flow meter in accordance with the manufacturer's recommendations and The City of Tacoma's "Submeter Installation and Testing Guidelines." All maintenance and calibrations shall be recorded in a maintenance log and be available for inspection.

T3. REPORTING REQUIREMENTS

A. START UP

To confirm compliance, samples shall be analyzed within 30 days after start up for the parameters specified in section T1.A and B. Results of the analysis shall be submitted to ESCS within 45 days after start up, along with the average daily flow volumes for the first 30 days of operation.

B. ROUTINE REPORTING

Quarterly reports shall be submitted to ESCS, listing the sampling results for the parameters specified in section T1.A. Results obtained during the previous reporting period shall be submitted no later than the **15th** calendar day of the month after the completed reporting period. Discharge monitoring shall begin within 30 days after the treatment system is placed in service. The first report shall be submitted within 45 days after start up. Future reports shall be due **January 15th, April 15th, July 15th and, October 15th**. Any reason(s) for not complying with this requirement and any steps taken by to comply shall be part of the report. All required reports shall be signed by an Authorized Representative and include the certification statement detailed in Section T3.F.

C. ACCIDENTAL, SLUG, AND EXCESSIVE DISCHARGE

The Permittee shall immediately notify ESCS on becoming aware of any accidental, excessive or slug discharge to the sanitary sewer as outlined in Tacoma Municipal Code Chapter 12.08. Written notification discussing the circumstances of the discharge or spill and the disposition of the spilled materials shall be submitted to ESCS within five (5) calendar days of the occurrence.

D. NON-COMPLIANCE REPORTING

1. Any event or circumstance that places the Permittee in a temporary state of non-compliance with wastewater discharge limitation(s) contained in this Permit or other limitations specified in the City's Municipal Code shall be reported to ESCS within **24 hours** of discovery. A written report explaining the circumstances surrounding the event and any corrective action(s) taken shall be submitted to ESCS within **5 calendar days**.
2. Any failure to meet the limits or sampling frequencies specified in Section T1.B shall be reported to ESCS within **24 hours** of discovery of the violation. The Permittee shall repeat the analysis of each parameter that exceeded its discharge limitation and submit the results to ESCS within **30 calendar days** after discovery of the violation.

E. REPORTING ADDRESS

All reports shall be submitted to the following address:

Pretreatment Coordinator
Environmental Services Compliance Support
City of Tacoma
2201 Portland Avenue
Tacoma, WA 98421

The business hour telephone number is (253) 591-5588.
The after hours telephone number is (253) 591-5595.

F. SIGNATORY REQUIREMENTS

1. All reports and documents required by this permit and any industrial wastewater discharge permit applications shall be signed by an executive officer of the Permittee or their designee.
2. Plans for modifications of existing pretreatment equipment or for installation of additional equipment shall also be signed by a professional engineer registered in the State of Washington, unless waived by the Director.
3. Any person signing a document required by this permit shall make the following certification statement:

"I certify, under penalty of law that this document and all attachments to it were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. Further, I certify that this facility is implementing the Accidental Spill Prevention Plan most recently approved by ESCS. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

T4. GENERAL CONDITIONS

A. PROHIBITED MATERIALS

The Permittee shall comply with all the general prohibited discharge standards in Tacoma Municipal Code Chapter 12.08.020 **Prohibitions on Discharges** and 12.08.030 **Prohibitions on Storm drainage, Ground Water and Unpolluted Water**.

B. RIGHT OF ENTRY

The Permittee shall, at all reasonable times, allow authorized representatives of the City bearing proper credentials and identification to:

1. Enter upon the Permittee's premises to inspect and investigate conditions relating to compliance with any of the terms of this permit;
2. Access and copy any records required under the terms and conditions of this permit;
3. Inspect any pretreatment or monitoring equipment or analytical method required by this permit; and
4. Sample any wastewater discharge.

C. RECORDS RETENTION

The Permittee shall retain and preserve for no less than **three (3) years** any records, log books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of the Permittee in connection with its wastewater discharge or off-site transportation and/or disposal of its wastewaters and sludges.

All records pertaining to matters subject to administrative relief or any other enforcement or litigation activities brought by the City shall be retained and preserved by the Permittee until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. All records required by the permit shall be available for review at reasonable times by authorized representatives of the City.

D. CONFIDENTIAL INFORMATION

In accordance with City Municipal Code Section 12.08.170 **Confidential Information**, information and data furnished to the Director with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction, in accordance with Washington State Public Disclosure laws.

E. DILUTION

To achieve compliance with the limitations contained in this permit the Permittee shall not increase the use of potable or process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment.

F. HAZARDOUS WASTE NOTIFICATION

Federal regulation 40 CFR Part 403.12(p) **Industrial User Hazardous Waste Notification Requirements**, requires the Permittee to notify ESCS, the EPA Regional Waste Management Division Director, and the Department of Ecology in writing if the Permittee discharges into the City's municipal sanitary sewer system any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

G. DISCHARGE TO STORM SEWERS OR PUBLIC WATERS

Only unpolluted stormwater may be discharged to the storm drainage system. The Permittee is hereby notified that discharges to public waters and City storm sewer systems are regulated by the Federal Clean Water Act, as amended, Washington State RCW 90-48, as amended, and the Tacoma Municipal Code, Chapter 12.08.

H. PROPER DISPOSAL OF PRETREATMENT SLUDGES AND SPENT CHEMICALS

Sludges, solid waste, and spent chemicals shall not be discharged to the sanitary sewer. The Permittee is hereby advised that other State and Federal regulations govern the disposition of these materials, namely Section 405 of the Clean Water Act, as amended, subtitles C and D of the Resource Conservation and Recovery Act, as amended, and Chapter 173-303 WAC, Dangerous Waste Regulations.

I. EMERGENCY SUSPENSION OF SERVICE AND REVOCATION OF PERMIT

The Director may without advance notice, order the suspension of wastewater treatment service and may revoke this Wastewater Discharge Permit when it appears to the Director that an actual or threatened discharge:

1. Threatens or presents an imminent or substantial danger to the health or welfare of personnel or to the environment;
2. Threatens to interfere with the operation of the Municipal Sanitary Sewer System or causes the City to violate its NPDES permit; or
3. Causes the Permittee to violate any pretreatment limitation imposed by this permit or other regulation contained in Tacoma Municipal Code Chapter 12.08.

The Permittee shall immediately cease all discharges to the sanitary sewer when notified of the Director's suspension order. If the Permittee fails to comply with the suspension order, the Director may utilize any judicial remedies to compel the Permittee to specifically comply with such an order. The Director may reinstate the Wastewater Discharge Permit, wastewater treatment service, or both, upon proof by the Permittee that the non-complying discharge or conditions creating the threat, as set forth above, have been eliminated.

J. LIMITATION ON PERMIT TRANSFER

Wastewater discharge permits are issued to a particular user for a specific operation and are not assignable to another entity, or transferable to any other location without the prior written approval of ESCS. The sale of a business shall obligate the purchaser to obtain prior written approval from ESCS to continue discharging into the sanitary sewer system.

K. MODIFICATION OR REVISION OF THE PERMIT

Terms and conditions of the Permittee's Industrial Wastewater Discharge permit may be subject to modification or revision by ESCS:

1. Whenever limitations or requirements identified in the Tacoma Municipal Code are changed, modified, or revised, or any other just cause exists;
2. To incorporate special conditions resulting from a compliance order;
3. As a result of the EPA or the State promulgating new or revising existing pretreatment regulations;
4. When there has been a change in the condition of the receiving waters or any other condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
5. Upon request by the Permittee, provided such request does not create a violation of any existing applicable requirements, standards, laws, rules or regulations;
6. Upon violation of any terms or conditions of this permit;
7. Upon misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report;
8. To reflect a transfer of the facility's ownership, operation, or both, to a new owner or operator.

Substantial permit modifications shall be processed with public notice for review and comments, including an opportunity for public hearing in accordance with requirements of 40 CFR 403.18. All other permit modifications consistent with Tacoma's approved pretreatment program may be implemented after the Permittee has had the opportunity to comment on the proposed modification.

Any permit modification which results in a revision of the existing permit limitations or requirements shall include a reasonable compliance schedule.

L. NEW OR INCREASED DISCHARGE

A new application and the appropriate engineering plans must be submitted to ESCS for approval at least **90 calendar days** prior to the introduction of the following changes, unless this requirement is waived by ESCS.

1. A new process wastewater discharge;
2. An increase in a process wastewater discharge's volume or frequency; or
3. A change in the process wastewater discharge's pollutant concentration

No modifications or alterations to pretreatment equipment shall be made until plans have been approved and a new or modified permit has been issued.

M. MODIFICATION OF PRETREATMENT EQUIPMENT

Prior to installing, modifying or expanding pretreatment equipment, or changing wastewater treatment chemicals, the Permittee shall submit to ESCS for approval, the appropriate plans, specifications, engineering reports, Material Safety Data Sheets, or other pertinent information. Pretreatment equipment construction or installation is prohibited until the Permittee has obtained written approval from ESCS.

No person, by virtue of such approval, shall be relieved from compliance with other local, state, or federal laws relating to the construction and approval of such facilities or equipment.

Each pretreatment facility shall be constructed, installed, and maintained at the expense of the Permittee.

N. UNABLE TO COMPLY

In the event the Permittee is unable to comply with any of the conditions of this permit due to any cause, the Permittee shall:

1. **Immediately** take action to stop, contain, and clean up any unauthorized discharge(s) and correct the problem;
2. **Within 24 hours** notify ESCS of the Permittee's failure to comply; and
3. **Within five (5) calendar days** of the violation, submit a detailed written report describing the nature of the violation, any corrective action taken or planned to prevent a recurrence, and any other pertinent information.

Following these requirements does not relieve the Permittee from its responsibility to continuously maintain compliance with the conditions of this permit or the resulting liability for failure to comply.

O. UPSETS

If the Permittee experiences an upset as defined in Chapter 12.08.010, upon its discovery the Permittee shall **immediately** inform ESCS and within **five (5) calendar days** submit a report specifying the following information.

1. Description of the upset, its cause, and the upset impact on the Permittee's compliance status.
2. Duration, dates, and times of non-compliance. If non-compliance is expected to continue, the Permittee shall state when it expects to return to compliance status.
3. Steps taken to reduce, eliminate and prevent recurrence of the upset or other non-compliance condition. The steps should include, but not be limited to, reducing or controlling production, providing alternate treatment or power supply, and providing temporary storage, off-site wastewater disposal, or both.

Responses by the Permittee to the above reporting requirements will be used to determine what enforcement action, if any, will be taken by ESCS in accordance with Section T.4 X of this Permit.

P. BYPASSES

1. A "**bypass**" is the intentional diversion of wastestreams from any portion of a Permittee's pretreatment facility.
2. **Severe property damage** is substantial physical damage to property or pretreatment facilities, which could cause them to become inoperable, or a substantial and permanent loss of natural resources which one may reasonably expect to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
3. If the Permittee knows in advance that a bypass is necessary, it shall request and receive permission in writing from ESCS prior to implementing the bypass. At a minimum, the written request shall contain the information specified below.
After considering the information provided and the effects of the proposed bypass, ESCS may approve or deny the request for a bypass. An approved bypass may require the Permittee to conduct special monitoring.
4. If the Permittee experiences an unanticipated bypass, the Permittee shall:
 - a. Submit verbal notice **immediately** upon becoming aware of the bypass;

- b. Provide a report within **five (5) calendar days** from becoming aware of the bypass. The report shall contain a description of the bypass, its cause; duration, including dates and times, and the steps taken to reduce, eliminate, and prevent a reoccurrence. On a case-by-case basis ESCS may waive the report if verbal notification was received **immediately** and the incident was minor.
5. Any bypass is prohibited unless:
- a. The Permittee submitted notices as required above;
 - b. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; or
 - c. There were no feasible alternatives to the bypass, such as use of auxiliary treatment facilities, retention of untreated wastewater, or planned maintenance. This condition is not satisfied if:
 - d. Adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass during normal periods of equipment downtime or preventative maintenance; or
 - e. Back-up equipment failed to operate during primary/lead equipment failure.

Q. PROPER OPERATION

At all times, the Permittee shall maintain in good working order and efficiently operate:

- 1. Any monitoring equipment required by this permit; and
- 2. Any pretreatment or control facilities or systems installed or used by the Permittee to achieve compliance with the terms and conditions of this permit.

In order to maintain compliance when a reduction, loss, failure, or bypass of the pretreatment facility has occurred, the Permittee shall control production or its wastewater discharge until the facility is restored or an alternative method of pretreatment is provided. This requirement applies even when the primary source of power for the pretreatment facility is reduced, lost, or fails.

R. DUTY TO REAPPLY

The Permittee shall reapply for permit renewal at least **180 calendar days** prior to the permit's expiration. At the Director's discretion, an expired permit may be administratively extended until a new permit is issued.

S. SEVERABILITY

The provisions of this permit are severable and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision or other circumstance and the remainder of this permit shall not be affected thereby.

T. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights, either real or personal property, or any exclusive privileges, nor does it authorize any invasion of personal rights.

U. COMPLIANCE WITH OTHER REGULATIONS

Nothing in this permit shall be construed to excuse the Permittee from complying with any applicable federal, state, or local statutes, ordinances, or regulations.

V. VIOLATION OF TERMS AND CONDITIONS

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any pollutant at a rate more frequent or at a concentration in excess of that authorized by this permit shall constitute a violation of the terms and conditions of this permit.

W. ENFORCEMENT PROVISION

In response to the following violations by the Permittee, as provided by Tacoma Municipal Code Chapter 12.08, the City may seek any or all remedies and penalties, both civil and criminal, and recover all costs incurred:

1. Any violation of the provisions of this permit.
2. Any violation of the provisions of Tacoma Municipal Code Chapter 12.08; or
3. Any violation of any Order from the City with respect to provisions set forth in this permit or in Tacoma Municipal Code Chapter 12.08.

The range and severity of any remedy or penalty taken by the City against the Permittee will be determined by, but not limited to, the nature, duration, frequency, and consequences of the violation and any economic benefit gained from non-compliance.